

# PLANNING COMMISSION MINUTES

February 19, 2003

## CALL TO ORDER:

Chairman Bob Barnard called the meeting to order at 7:01 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

## ROLL CALL:

Present were Chairman Bob Barnard, Planning Commissioners Eric Johansen, Dan Maks, Shannon Pogue, Vlad Voytilla, and Scott Winter. Planning Commissioner Gary Bliss was excused.

Senior Planner John Osterberg, Associate Planner Liz Shotwell, Assistant City Attorney Ted Naemura, and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Barnard, who presented the format for the meeting.

## VISITORS:

Chairman Barnard asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

## STAFF COMMUNICATION:

Staff indicated that there were no communications at this time.

## NEW BUSINESS:

Chairman Barnard opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

1       **PUBLIC HEARINGS:**

2

3       **A.     DR 2002-0210 – McGRATH'S FISH HOUSE DESIGN**  
4       **REVIEW**

5       The applicant requests Type 3 Design Review approval for the  
6       construction of an approximately 8,200 square foot restaurant  
7       building to be placed upon an individual lease area within the  
8       Cedar Hills Crossing Development. The new restaurant is  
9       proposed to be located north of the newly constructed Bank of  
10      America, adjacent to SW Cedar Hills Boulevard, at 3205 SW  
11      Cedar Hills Boulevard, on property more specifically described  
12      as Tax Lot 200, Washington County Assessor's Map 1S1-0900.  
13      The subject lease pad is zoned Community Service (CS), and is  
14      approximately 14,350 square feet in size.

15      **B.     ADJ 2002-0008 – McGRATH'S FISH HOUSE SETBACK**  
16      **ADJUSTMENT**

17      The applicant requests Major Adjustment approval for the  
18      construction of a new restaurant building proposed to be located  
19      within the Code required minimum front yard setback of this  
20      zoning district. Per Development Code Section 20.10.50.3, the  
21      minimum front yard setback within this zoning district is 20  
22      feet, and the applicant requests a Major Adjustment to reduce  
23      this setback, abutting SW Cedar Hills Boulevard within the  
24      lease area of McGrath's Fish House to 10 feet. This property is  
25      located at 3205 SW Cedar Hills Boulevard, on property more  
26      specifically described as Tax Lot 200, Washington County  
27      Assessor's Map 1S1-0900. The subject lease pad is zoned  
28      Community Service (CS), and is approximately 14,350 square  
29      feet in size.

30      **C.     CU 2002-0035 – McGRATH'S FISH HOUSE CONDITIONAL**  
31      **USE – HOURS OF OPERATION**

32      The applicant requests Conditional Use approval to operate the  
33      proposed restaurant beyond the hours of 7:00 a.m. and 10:00  
34      p.m. on this site which is within a zone in which a conditional  
35      use permit is necessary for uses operating prior to 7:00 a.m. or  
36      after 10:00 p.m. This property is located at 3205 SW Cedar Hills  
37      Boulevard, on property more specifically described as Tax Lot  
38      200, Washington County Assessor's Map 1S1-0900. The subject  
39      lease pad is zoned Community Service (CS), and is  
40      approximately 14,350 square feet in size.

41

42      Commissioners Maks, Pogue, Johansen, Winter, and Voytilla, and  
43      Chairman Barnard all indicated that they had visited and were

1 familiar with the site and had no contact with any individual(s) with  
2 regard to this proposal.

3

4 Associate Planner Liz Shotwell presented the Staff Reports and briefly  
5 described the three separate applications associated with this proposal  
6 and submitted the materials board provided by the applicant.  
7 Concluding, she recommended approval of all three applications and  
8 offered to respond to questions.

9

10 Referring to page 8 of the Design Review Staff Report, Commissioner  
11 Voytilla questioned whether *McDonald's Restaurant* is included as a  
12 part of the Cedar Hills Crossing Mall property.

13

14 Ms. Shotwell verified that this restaurant is on a separate tax lot and  
15 involves easement access through the mall property, adding that this  
16 facility had not been included in the previous Type 3 Design Review for  
17 the redevelopment of the mall.

18

19 Commissioner Voytilla referred to page 11 of the Design Review Staff  
20 Report, observing that while the second paragraph indicates that there  
21 are no signs shown on the drawings, signs are indicated on the  
22 building elevation, and questioned whether this involves a  
23 freestanding sign.

24

25 Ms. Shotwell advised Commissioner Voytilla that he had found an  
26 error within the Design Review Staff Report, adding that these signs  
27 are not included in Design Review and should not have been shown in  
28 the drawings. She pointed out that the applicant would be required to  
29 obtain Sign Permits in connection with this approval, adding that  
30 based upon each individual tax lot, the Development Code imposes  
31 limitations upon the number of signs that would be allowed.

32

33 Commissioner Voytilla referred to page 14 of the Design Review Staff  
34 Report, and questioned why staff had specifically required the  
35 installation of two Sangu Kaku Japanese Maple trees.

36

37 Ms. Shotwell clarified that these particular trees had been specified in  
38 coordination with the landscape architect and the applicant prior to  
39 preparation of the Staff Report and revision of the drawings.

40

41 Commissioner Voytilla expressed concern with errors that have not  
42 been corrected within the standard Board of Design Review Conditions  
43 of Approval and specifically referenced Design Review Condition of  
44 Approval No. 5, observing that the industry standard would include a

1 DBH, and pointed out that a bare root tree should not be installed  
2 during the summer months.

3  
4 Referring to Design Review Condition of Approval No. 6, Commissioner  
5 Voytilla explained that the Development Code does not allow the  
6 option for an individual to utilize a tree spade to move trees,  
7 emphasizing that it is specifically identified that these trees must be  
8 balled and burlapped.

9  
10 Referring to Design Review Condition of Approval No. 9, Commissioner  
11 Voytilla mentioned that while sod could be installed throughout the  
12 year, it is necessary to restrict the installation of grass seed to May 1  
13 through October 1.

14  
15 Commissioner Voytilla requested clarification with regard to staff's  
16 rationale for Design Review Condition of Approval No. 15, which  
17 addresses the installation and location of mailboxes, observing that the  
18 wording makes no sense.

19  
20 Referring to Design Review Condition of Approval No. 22,  
21 Commissioner Voytilla suggested that this condition be amended to  
22 include DBH.

23  
24 Commissioner Voytilla expressed his appreciation to staff for including  
25 Condition of Approval No. 3, limiting the reduced setback approval to  
26 only McGrath's Fish House, in the Adjustment Staff Report.

27  
28 Ms. Shotwell acknowledged Commissioner Voytilla's comments, adding  
29 that staff is working on the suggested modifications to the standard  
30 Board of Design Review Conditions of Approval.

31  
32 Commissioner Maks referred to page 5 of the Conditional Use Staff  
33 Report, observing that this request with regard to the hours of  
34 operation only addresses the hour between 10:00 p.m. and 11:00 p.m.,  
35 observing that this conditional use applies to the land.

36  
37 Ms. Shotwell explained that while this conditional use applies to the  
38 land, it is specific to the restaurant use itself, emphasizing that while  
39 it is not applicable for another use, another restaurant could also  
40 operate during these extended hours.

41  
42 Observing that this site is located near SW Cedar Hills Boulevard and  
43 adjacent to a Station Community district, Commissioner Maks  
44 questioned whether staff would be amenable to the possibility of

1 extending the hours of operation beyond 11:00 p.m. He expressed his  
2 opinion that this would be conducive towards creating a vibrant  
3 corridor within transit-oriented and pedestrian-friendly community,  
4 and suggested that the applicant might be interested in extending  
5 these hours to 12:00 a.m. or even 2:00 a.m. He pointed out that while  
6 the applicant might not want to operate until 2:00 a.m. at this time, it  
7 would be a good idea to have this option in the future without being  
8 required to complete a new application process.  
9

10 Ms. Shotwell advised Commissioner Maks that staff would be support-  
11 ive of his suggestion to extend the hours of operation beyond those  
12 originally requested by the applicant, adding that another restaurant,  
13 specifically The Beach Shack, would be submitting an application for a  
14 Conditional Use for extended hours of operation until 2:00 a.m.  
15

16 Referring to page 2 of the Meeting Minutes for the Central Beaverton  
17 NAC, Commissioner Maks noted that the applicant had estimated that  
18 approximately 80 to 100 parking stalls would be deleted or displaced  
19 with the Beaverton Mall redevelopment. He pointed out that the  
20 overall mall redevelopment is approved with BDR 2002-0002 indicated  
21 that the original 2,011 parking stalls, prior to new development, had  
22 decreased to 1,994 total parking stalls under redevelopment, and  
23 questioned the reference to a new requirement of 1,669 stalls.  
24

25 Ms. Shotwell informed Commissioner Maks that while she would have  
26 to review the requirements with regard to parking standards, she  
27 believes that the new minimum would only be referring to the fact that  
28 the minimum standards within the Development Code are different  
29 than they were when the mall was originally developed.  
30

31 Commissioner Maks requested clarification with regard to whether the  
32 previous Design Review application had required a specific number of  
33 parking spaces, adding that he would be concerned with a proposal for  
34 the minimum 1,669 parking stalls.  
35

36 Ms. Shotwell clarified that the number of parking spaces is not  
37 specifically conditioned within the previous Design Review application.  
38

39 Referring to page 11 of the Adjustment Staff Report, Commissioner  
40 Johansen pointed out that SW Cedar Hills Boulevard is an arterial  
41 street, rather than a collector street.  
42

43 Ms. Shotwell referred to Commissioner Voytilla's comment with regard  
44 to sign permits, adding that staff suggests the addition of a Condition

1 of Approval that would indicate that the sign permits would be  
2 required to be obtained prior to installation.

3

4 **APPLICANT:**

5

6 **SCOTT BECK**, architect representing *McGrath's Fish House*,  
7 discussed the applicant's proposal and provided a brief description of  
8 the 13 existing locations within four separate states. Observing that  
9 the applicant's submittals should have adequately illustrated the  
10 proposed restaurant, he pointed out that this proposed restaurant  
11 would be very similar to the architecture displayed at the current site  
12 in Vancouver, Washington. He discussed the materials, architecture,  
13 color scheme, landscaping, screening, and other features concerning  
14 this proposal, and pointed out that it is his understanding that signage  
15 involves a completely separate approval process. Concluding, he  
16 offered to respond to questions.

17

18 Commissioner Maks requested clarification with regard to the size of  
19 the pedestrian plaza.

20

21 Mr. Beck advised Commissioner Maks that the pedestrian plaza is  
22 approximately ten feet wide at the narrowest point by 35 feet in  
23 length.

24

25 Commissioner Maks questioned why the entrance of the building is  
26 oriented to SW Cedar Hills Boulevard, rather than towards the mall.

27

28 Mr. Beck informed Commissioner Maks that the owner prefers to have  
29 the front door facing the public street, observing that the intent is to  
30 advertise the building and draw attention off of the pedestrian  
31 streetscape.

32

33 Commissioner Maks questioned whether the restaurant would include  
34 banquet facilities.

35

36 Observing that no banquet facilities would be available, Mr. Beck  
37 pointed out that the restaurant would have the ability to accommodate  
38 groups by moving tables and removing dividers.

39

40 Commissioner Maks requested clarification with regard to operating  
41 hours, specifically whether all of the restaurants close at 11:00 p.m.

42

43 Mr. Beck stated that all of the restaurants typically close at 11:00 p.m.,  
44 observing that while they are family-oriented, they do have a liquor

1 license and that there is a small lounge, rather than a proper bar, that  
2 is blended with the dining area. He expressed his appreciation of  
3 Commissioner Maks' suggestion that the hours of operation be  
4 extended to 2:00 a.m., rather than 11:00 p.m., adding that this should  
5 accommodate any changes that could potentially occur in the future.

6  
7 Commissioner Maks complimented the applicant for their submittal of  
8 an application that is easily understood with regard to approving  
9 applicable criteria.

10  
11 Commissioner Johansen expressed his opinion that it is unusual to  
12 review a proposal that is oriented to the street like this, adding that  
13 while he is encouraged to see this occurring, it is difficult to visualize  
14 the potential pedestrian interaction at this time.

15  
16 Observing that this has been done before on several different sites, Mr.  
17 Beck pointed out that the result is that it is still not as inviting as if it  
18 were turned around.

19  
20 Commissioner Winter noted that while he approves of pedestrian  
21 orientation, he is concerned with safety issues, specifically with regard  
22 to a 30-inch wall, which would restrict pedestrian movement off of SW  
23 Cedar Hills Boulevard.

24  
25 Mr. Beck expressed his opinion that this wall directs, rather than  
26 restricts, adding that there is still a fairly broad access point and that  
27 the applicant is attempting to focus access points along the pedestrian  
28 walkway on SW Cedar Hills Boulevard.

29  
30 Commissioner Winter referred to the pedestrian plaza, and questioned  
31 whether the applicant intends to seat customers out on this plaza.

32  
33 Mr. Beck pointed out that the plaza is not really large enough for both  
34 dining and ingress/egress purposes, adding that this had been  
35 considered as more of a place to linger prior to or after dining. He  
36 explained that while the concrete block wall provides reinforcement,  
37 the area is not actually vehicle proof.

38  
39 Commissioner Winter noted that he is concerned with safety with  
40 regard to individuals who might actually climb over the rock wall,  
41 observing that this appears to provide what he considers a mecca or a  
42 skateboard heaven for kids.

43

1 Mr. Beck explained that landscaping would be provided up against the  
2 wall on the street side, adding that this should make access more  
3 difficult.

4  
5 Commissioner Voytilla requested clarification with regard to the signs.

6  
7 Mr. Beck informed Commissioner Voytilla that he is referring to  
8 earlier submittals provided in the course of several different phases.

9  
10 Commissioner Pogue stated that he is curious with regard to the  
11 presence of the building only ten feet off of the street, and questioned  
12 how this relates in contrast to the Bank of America building.

13  
14 Mr. Beck explained that the building provides a frontal elevation to the  
15 left, adding that the high point is 27½-feet and involves a sort of a  
16 central roof element, specifically a clear story roof with windows on all  
17 four sides with a peak roof above that. He pointed out that this occurs  
18 pretty much in the center of the building, adding that the building  
19 starts off typically shorter and scales up in various layers of roofing  
20 elements. He noted that the new Bank of America building would be  
21 1½ stories tall, which would be approximately 17½ to 18-feet to the  
22 high point.

23  
24 Commissioner Maks questioned whether the applicant is comfortable  
25 with his recommendation to extend the proposed hours of operation  
26 until 2:00 a.m.

27  
28 Observing that the applicant has no intention of operating as a night-  
29 club, Mr. Beck assured Commissioner Maks that they are comfortable  
30 with this recommendation, adding that there may be occasions and  
31 situations in which the longer hours would become necessary.

32  
33 Commissioner Pogue expressed his concern with respect to parking  
34 and influence upon the patronage or traffic to other sites in the area.

35  
36 Observing that the completion of the development and removal of the  
37 bank building should extend the parking, Mr. Beck advised  
38 Commissioner Pogue that Mr. Perniconi is able to more specifically  
39 address the overall development as it relates to the parking situation.

40  
41 **PUBLIC TESTIMONY:**

42  
43 **MARK PERNICONI**, representing the developer of the mall, *C. E.*  
44 *John Company*, expressed his support of the proposal, and discussed



1 the situation that exists at the Lancaster Mall in Salem, Oregon,  
2 adding that McGrath's Fish House would easily be the most  
3 interesting restaurant in Beaverton. Expressing his opinion that the  
4 architect should be commended, he pointed out that the adjustment  
5 request is well justified, adding it is necessary to demolish the old  
6 Bank of America building as soon as possible, most likely within two  
7 weeks. Concluding, he pointed out that the developer is pleased with  
8 the addition of two new restaurants, adding that a third restaurant  
9 would most likely be announced the following day.

10  
11 Ms. Shotwell indicated that she had no further comments with regard  
12 to this proposal.

13  
14 Assistant City Attorney Ted Naemura suggested that the deliberations  
15 should entertain the extension of hours, adding that this should be  
16 related to the understanding of a normal restaurant operation, and  
17 possibly later hours related to special events.

18  
19 The public portion of the Public Hearing was closed.

20  
21 Commissioner Voytilla stated that he supports all three applications,  
22 adding that they meet applicable criteria, observing that he would also  
23 support a motion for the extended hours, as suggested by  
24 Commissioner Maks.

25  
26 Commissioner Maks expressed his support of the proposal, expressed  
27 his appreciation to the applicant for their submittal, adding that all  
28 three applications meet applicable criteria.

29  
30 Commissioner Winter stated that he supports all three applications,  
31 adding that they meet applicable criteria.

32  
33 Commissioner Pogue expressed his appreciation of Mr. Perniconi's  
34 comments with regard to the architecture, adding that this addresses  
35 some of his concern, adding that he supports all three applications.

36  
37 Commissioner Johansen stated that this proposal provides a very good  
38 addition to Cedar Hills Crossing, expressed his appreciation to the  
39 applicant for a very thorough application, adding that he supports all  
40 three applications and concurs with the proposed extended hours of  
41 operation.

42  
43 Chairman Barnard expressed his support of all three applications and  
44 the proposed extended hours of operation, adding that the applicant

1 should not be required to submit another application to extend the  
2 Conditional Use in the future.

3  
4 Commissioner Maks requested clarification with regard to  
5 Commissioner Voytilla's issues concerning the Design Review  
6 Conditions of Approval.

7  
8 Chairman Barnard requested staff input with regard to these issues.

9  
10 Ms. Shotwell clarified that Commissioner Voytilla's suggestions are all  
11 acceptable to staff, adding that Design Review Condition of Approval  
12 No. 15 should be deleted.

13  
14 Commissioner Johansen referred to Design Review Condition of  
15 Approval No. 9, and questioned whether this would be amended to  
16 appropriately clarify when grass seed and sod should be installed.

17  
18 Ms. Shotwell advised Commissioner Johansen that Design Review  
19 Condition of Approval would be amended to appropriately clarify when  
20 grass seed and sod should be installed.

21  
22 Commissioner Voytilla **MOVED** and Commissioner Maks  
23 **SECONDED** a motion to **APPROVE** DR 2002-0210 – McGrath's Fish  
24 House Type 3 Design Review, based upon the testimony, reports and  
25 exhibits, and new evidence presented during the Public Hearing on the  
26 matter, and upon the background facts, findings and conclusions found  
27 in the Staff Report dated February 12, 2003, as amended, including  
28 Conditions of Approval Nos. 1 through 23, with certain amendments,  
29 as follows:

30  
31 5. Height and screening shall be emphasized through the  
32 planting of deciduous trees. These trees shall have straight  
33 trunks, be fully branched, have a minimum caliper **at DBH**  
34 of 1¼-inches and a minimum height of eight feet at the time  
35 of planting. Deciduous trees can be supplied bare root  
36 **during the dormant season** provided the roots are  
37 protected against damage. Each tree is to be adequately  
38 staked.

39  
40 6. Evergreen trees must be balled and burlapped or in suitable  
41 containers in which the tree has grown for one year. The  
42 ball of each tree shall be firm and the burlap sound; no loose  
43 ball or made ball will be accepted. Each tree shall be a  
44 minimum of six feet in height, fully branched, and

adequately staked at the time of planting. **If the applicant desires, evergreen trees may be transplanted using a tree spade.**

9. In landscape areas to be placed in grass, ~~so~~ **grass seed** shall be placed from ~~October~~ **May** 1 to ~~May~~ **October** 1. ~~Grass seed~~ **Sod** shall be an option at ~~other times~~ **any time** of the year.

- ~~15. The installation and location of all mailboxes shall be incorporated and made an integral part of any proposal.~~

22. The applicant shall install two (2) Sangu Kaku Japanese Maple trees, at a minimum of two inches in caliper **at DBH**, to be placed in the shrub bed to the south building edge, within the area around the eastern exit.

Motion **CARRIED** by the following vote:

**AYES:** Voytilla, Maks, Johansen, Pogue, Winter, and Barnard.

**NAYS:** None.

**ABSTAIN:** None.

**ABSENT:** Bliss.

At the request of Commissioner Maks, Chairman Barnard reopened the Public Hearing.

Commissioner Maks questioned whether the applicant is aware that the hours of operation of 7:00 a.m. until 2:00 a.m. would mean that no deliveries would be allowed prior to 7:00 a.m., adding that this would not affect trash collection.

Mr. Beck requested that the hours of operation be revised to 6:00 a.m. until 2:00 a.m.

Commissioner Maks concurred with Mr. Beck's request.

The public portion of the Public Hearing was closed.

Commissioner Maks **MOVED** and Commissioner Voytilla **SECONDED** a motion to **APPROVE** CU 2002-0035 – McGrath's Fish House Hours of Operation Conditional Use based upon the testimony, reports and exhibits, and new evidence presented during the Public

Hearing on the matter, and upon the background facts, findings and conclusions found in the Staff Report dated February 12, 2003, as amended, including Conditions of Approval Nos. 1 and 2, and adopting Condition of Approval No. 3 to extend the hours of operation as proposed from 6:00 a.m. to 2:00 a.m., rather than 7:00 a.m. to 10:00 p.m., as follows:

3. The Conditional Use permit approval shall extend the hours of operation for the McGrath's Fish House to allow the restaurant use to remain open for business between the hours of 6:00 a.m. to 2:00 a.m.

Motion **CARRIED** by the following vote:

**AYES:** Maks, Voytilla, Johansen, Pogue, Winter, and Barnard.  
**NAYS:** None.  
**ABSTAIN:** None.  
**ABSENT:** Bliss.

Commissioner Maks **MOVED** and Commissioner Johansen **SECONDED** a motion to **APPROVE** ADJ 2002-0008 – McGrath's Fish House Setback Adjustment, based upon the testimony, reports and exhibits, and new evidence presented during the Public Hearing on the matter, and upon the background facts, findings and conclusions found in the Staff Report dated February 12, 2003, as amended, including Conditions of Approval Nos. 1 through 3.

Motion **CARRIED** by the following vote:

**AYES:** Maks, Johansen, Pogue, Voytilla, Winter, and Barnard.  
**NAYS:** None.  
**ABSTAIN:** None.  
**ABSENT:** Bliss.

### **APPROVAL OF MINUTES:**

Minutes of the meeting of January 8, 2003, submitted. Commissioner Maks requested that lines 4 through 8 of page 7 be amended, as follows: "...while he ~~has no definite opinion until he knows specifically what is being protected, he pointed out that he personally prefers to impose very rigorous protection and restrictions,~~ **he would also like to raise the level of significance.** Commissioner Maks requested

1 that lines 19 through 23 of page 20 be amended, as follows:  
2 “Commissioner Maks **pointed out that previous actions of the**  
3 **Planning Commission had** emphasized...” Commissioner Johansen  
4 **MOVED** and Commissioner Voytilla **SECONDED** a motion that the  
5 minutes be approved, as amended.

6  
7 Motion **CARRIED**, unanimously, with the exception of Commissioner  
8 Winter, who abstained from voting on this issue.

9  
10 Minutes of the meeting of January 15, 2003, submitted. Commissioner  
11 Voytilla **MOVED** and Commissioner Maks **SECONDED** a motion that  
12 the minutes be approved as written.

13  
14 Motion **CARRIED**, unanimously.

15  
16 Minutes of the meeting of January 22, 2003, submitted. Commissioner  
17 Johansen **MOVED** and Commissioner Maks **SECONDED** a motion  
18 that the minutes be approved as written.

19  
20 Motion **CARRIED**, unanimously.

21  
22 Minutes of the meeting of January 29, 2003, submitted. Commissioner  
23 Johansen requested that lines 4 through 6 of page 8 be amended, as  
24 follows: “Commissioner Johansen ~~expressed concern with~~ **questioned**  
25 **which** economic circumstances ~~that~~ would generate residential use of  
26 the site...” Commissioner Voytilla **MOVED** and Commissioner Pogue  
27 **SECONDED** a motion that the minutes be approved, as amended.

28  
29 Motion **CARRIED**, unanimously.

30  
31 **MISCELLANEOUS BUSINESS:**

32  
33 Commissioner Maks and Chairman Barnard expressed their  
34 appreciation of the training opportunity recently facilitated by staff.

35  
36 The meeting adjourned at 8:06 p.m.